Adopting these definitions and an approach that makes a primary line determination with reference to both the price cap LEC and the carrier reselling the price cap LEC's service, would eliminate many of the problems associated with the alternatives being considered. Administration would be mechanized through billing records without the need for end-user involvement, the need to craft "primary line" standards and default rules would disappear, and competitive neutrality would be advanced. The entire process would be greatly simplified and the causes for disputes between price cap LECs, resellers, and end-users minimized. The approach would also eliminate any "primary line status slamming" before it gets started.

The SBC LEC approach would have the benefit of using existing price cap LEC and reseller billing records. Making the primary/non-primary determination by end-user account information is not only appropriate, it also results in many benefits.

For numerous reasons, residential customer self-certification is the wrong approach in that it would entail a massive program involving even unaffected end-users. The SBC LEC approach does not depend on self-certification, would eliminate the customer confusion and irritation that would result from any self-certification requirement, and would avoid the real possibility of the cost of administration being greater than the benefit. Also, the Commission would not need to address recovery of the price cap LEC's administrative costs.

The Commission should reject the notion of using a model to verify the number of primary lines. The Hatfield model, for example, as been demonstrated to be wholly unreliable in estimating the number of lines in CBGs.

Given the increasingly common occurrence of more than one household per service address, the Commission should not place a limit on the number of possible primary lines.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D C. 20554

In the Matter of	)	
	)	CC Docket No. 97-181
Defining Primary Lines	)	

COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL

Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (collectively, the "SBC LECS") submit these Comments in response to the Notice of Proposed Rulemaking, FCC 97-316, released by the Commission in this proceeding on September 4, 1997 ("NPRM"). This proceeding was instituted to implement the two-tier residential subscriber line charge ("SLC") structure mandated only for price cap local exchange carriers ("LECS") that was adopted in the Access Charge Reform Order.[1] By filing these Comments, none of the SBC LECS or any affiliate waives, prejudices, or otherwise adversely affects any appeal or other recourse from any Commission proceeding, including the Access Charge Reform Order.

This Proceeding Must Remain Focused Only on Implementing the Two-Tiered Rate Structure for Price Cap LECS

The sole purpose of this proceeding is to implement a two-tiered SLC rate structure for only price cap LECS, thereafter to be used in charging their retail and wholesale customers. In

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[1] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, and 95-72, First Report and Order, FCC 97-158 (released May 8, 1997) ("Access Charge Reform Order").

essence, this proceeding is largely a replay of the earlier Commission proceedings that defined "single-line business" and "multiline business" services for purpose of applying the SLC, albeit this time in the context of the resale obligations imposed by the 47 U.S.C. § 251.

Under no circumstances should the Commission allow this proceeding to be recast as a means of forcing price cap LECS to create and administer a system that might be considered for use in determining a "universal service primary line" should federal universal service support is eventually limited to a single line per residence or business. As the Commission acknowledges, such a system is not the intent of this proceeding,[2] and thus is beyond its scope. Moreover, any considerations based on 47 U.S.C. § 254 are simply irrelevant to a structure meant to implement how the price cap LECS apply their lawful charges. For the same reason, there is no reason to consider any residential service that the customer may obtain from a facilities-based carrier that is not a price cap LEC in determining the primary line.

If Not Eliminated, the Definition of Single-Line Business Should Be Left Unchanged (NPRM, ¶ 5)

The SBC LECS believe that the business line SLC distinction should be eliminated. If, however, the distinction is to remain, the Commission should not change the existing base definition of "single-line business" set forth in 47 C.F.R. § 69.152(h). Leaving the definition undisturbed would avoid the unnecessary burden of implementing another billing system change, subjecting business customers to service changes, and having incumbent local exchange carriers

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[2] NPRM, ¶ 4 n.19.

("LECS") amend tariff language that similarly defines single-line businesses.

The Commission Should Adopt a Definition for Primary Line That Can Be Administered (NPRM, ¶¶ 6, 11)

The focus of this proceeding should be on implementing the two-tiered SLC structure in a manner which is administrable, inexpensive and cost effective, customer-friendly and not confusing or irritating, and is capable of being audited with a substantial degree of confidence. The Commission should correspondingly strive to avoid any process that imposes significant additional costs on price cap LECS for the sake of trying to administer the mandated two-tiered structure, or that creates additional incentives or opportunities for "gaming the system" or outright fraud. In an era where competition will require price cap LECS to become more efficient and to eliminate costs, implementing the two-tiered SLC structure in a manner that requires incurring significant additional costs to administer and enforce would be plainly unreasonable.

The most reasonable way to achieve those goals is to define "primary line" in reference to the price cap LEC's local service, and to use existing customer billing records to the greatest extent possible. The SBC LECS thus suggest adoption of the following definitions:

> Primary residence line - the initial line of a customer's account at a specific service address and for which a residential local exchange rate applies, determined with reference both to a price cap LEC residential local service offering and to any carrier reselling such offering.
>
> Non-primary residence lines - any lines to which a residential local exchange rate applies provided by a price cap LEC or a carrier reselling such service, and on a customer's account at the same service address as the primary residence line.

By way of example, a customer with two residential lines provided by a price cap LEC and one provided by a carrier reselling that price cap LEC's service would have two "primary residence lines" (one for each carrier providing residential service), and one "non-primary residence line" (provided by the price cap LEC). To continue the example, if the customer had another residential line provided by yet another local carrier that is facilities-based (*e.g.*, provided by use of unbundled local loop), that fourth line would not be counted as either a primary or non-primary residential line for the purposes of the price cap LEC assessing the SLC or presubscribed interexchange carrier charge, or "PICC."

The benefits associated with this approach are many. First, price cap LECS could administer the two-tiered structure and these definitions. Each price cap LEC and reseller would be able to track their end-users' primary and non-primary lines relying only on its own existing billing records, without the need for the gathering, recording, updating, and retaining additional data. Importantly, any possible need for end-user self-certification disappears, avoiding untold numbers of confused and irritated end-users, unreturned certifications, and the need to craft a default for those cases where the end-user does not provide certification. The Commission's ability to audit effectively for proper administration would be greatly enhanced, due to the relatively self-contained nature of customer billing records.

Adoption of this approach would also be competitively neutral, eliminate the certain potential for disputes, and the need to adopt even more standards and rules that would be difficult to implement and administer. Since the price cap LEC and each reselling carrier would each be able to claim a primary line to the same residence, neither would be placed at a competitive disadvantage based upon the anointing of one residential line as "primary."

Also eliminated by the SBC LEC's proposed approach would be the question of what standard should be used to decide which line is primary (*e.g.*, earliest date of service, customer certification), and how to apply that standard (*e.g.*, in the case of customer self-certification, (i) when mailed by customer, (ii) when received and when received by whom, or (iii) a set number of days after received by whom so as to permit processing and thus eliminate need for retroactive true-up; if earliest date in service is used, particularly vexing as local number portability becomes ubiquitous, and customer telephone number does not change but date of service does). Adopting the proposed definitions tremendously simplifies the process for price cap LECS, resellers, and perhaps most importantly, their respective end-user customers.

However, as between the price cap LEC and its resellers, some determination of how SLCs should be charged under the SBC LEC approach would still be needed. The price cap LEC will not have access to the reseller's end-user account information such that the price cap LEC could determine how to apply the primary/non-primary definition to its wholesale services.[3] The SBC LECS suggest using a combination of reseller certifications and service addresses for determining the application of the primary and non-primary SLCs. Resellers would be able to provide certifications as to the number of primary and non-primary residential lines at a specific service address determined in accordance with the suggested definitions, and the price cap LEC would charge accordingly. However, in the absence of a certification in situations where there is

[3] When a line is resold, the operational support systems of the SBC LECS list the reseller as the customer of record. The SBC LECS expect that other incumbent LECS' wholesale records are similarly populated.

more than one resold residential line to a service address, the reseller would be charged one primary line SLC and the remaining lines would be subject to the non-primary SLC. Those certifications would need to be subject to audit by the Commission as well as by the price cap LEC.

As compared to having a single primary line per residence, this suggested approach would greatly diminish disputes over whether the reseller should be charged a primary or a non-primary SLC, the need to pro-rate SLCs between primary and non-primary rates if the primary line designation changes in the middle of a billing period, billing mistakes and disputes attributable to lack of knowledge that could result in a line being mislabeled as "primary," and marketing efforts that seek only to take advantage of a regulator-created charging distinction (including that aimed at making the advertising carrier the "primary" carrier). Indeed, one can envision "primary line status slamming" becoming a new scourge. By adopting the SBC LEC's proposal, the Commission can avoid a new form of "slamming" before it even gets started.

Existing Billing Records Should Be Used In Determining Number of Primary Lines to a Single Premises (NPRM, ¶ 8)

The SBC LECS recommend that the number of primary and non-primary lines be determined with reference to actual customer billing accounts. Determinations would be made for each customer account, with the initial residential line provided at a residential customer's specific service address considered "primary" and any additional residential lines consolidated onto the same account at that address ~~being~~ considered "non-primary." Such consolidated lines are usually not the primary voice path out of a household, but instead are used for personal computer or data use, dedicated to children use, and the like. As such, they fit comfortably within the Commission's view of non-primary lines. For the seven State operations of the SBC LECS, approximately five percent (5%) of its total residential access lines are consolidated onto the same customer bill.

By determining primary lines in this manner, the following efficiencies and benefits can be realized. First, consolidated accounts can be automatically monitored by the billing system to ensure that only applicable lines are assessed the higher SLC. Second, customer perception is that consolidated accounts more closely match the definition of non-primary lines. Finally, the primary/non-primary line designation can be easily determined through standard customer service contact procedures. This process removes the customer service representative from the decision process, making the operation non-biased. In sum, this approach will save the SBC LECS and doubtless other price cap LECS considerable expenses in billing system modifications; customer representative and order processing time; and other administrative expenses. Any other process of determining non-primary lines would not be fully mechanized, creating much greater resources demands and vastly increasing the likelihood of inaccurate and disputed billing.

Self-Certification Is the Wrong Approach (NPRM, ¶ 9)

One of the methods being considered by the Commission is having each residential customer self-certify a primary line. There are over 100 million residential lines in the United

States today,[4] with the vast majority served by price cap LECS. End-user self-certification would thus entail a massive program that would need to involve even those customers not affected by the two-tiered SLC structure.

The Commission's support for such a massive customer self-certification program is demonstrably false, thus negating the tentative conclusion to adopt self-certification. The Commission posits that incumbent LECS will incur a substantial burden to identify each of their customers' primary line without information from the customer. The SBC LECS demonstrated otherwise above that primary/non-primary line definitions can be adopted and the mandated two-tiered SLC structure satisfactorily administered without pressing customers for any information they do not already provide.

Requiring self-certification simply will not minimize the substantial administrative cost on incumbent LECS. To the contrary, self-certification will maximize expense, as well as customers' and service representatives' confusion and irritation. Adopting the SBC LECS' proposed approach avoids the onerous requirement to poll customers with the easily-gamed inquiry of whether they prefer a higher (non-primary) or a lower (primary) SLC charge. No degree of auditing by the Commission could prevent gaming of this burdensome approach.

Moreover, there is absolutely no assurance that the additional revenue generated from the higher SLC charge will even offset the additional costs of any self-certification program and the many associated non-recurring and recurring costs and problems mentioned earlier. Each non-

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[4] "Trends in Telephone Service," Federal Communications Commission, Common Carrier Bureau, March 1997, Table 19.

primary SLC will initially generate an additional $1.50 per month, or $18 per year. Assuming 5% of residence lines are identified as non-primary, a price cap LEC would realize an average of $.90 per year per line in additional revenues. To derive the net benefit to a price cap LEC of such a program the administrative cost of the self-certification process would need to be subtracted from expected revenues. The SBC LECS believe that the cost of administering a self-certification process will likely be far greater than additional revenue generated -- in other words, a net loss to the price cap LECS. The Commission's proposal alludes to no mechanism to recover the new costs associated with administering the customer certification process. Price cap LECS cannot lawfully be placed in a no-win scenario by the Commission, where the only permitted way of recovering its legitimate and acknowledged costs still results in a loss.

Moreover, the Commission's proposal places the burden on the customer to notify his or her serving LECS regarding the classification of the lines. If a residential customer disconnects a line, it may or may not be the one he or she has certified as the primary line, and those lines may have been spread over more than one carrier. If the customer disconnects the primary line, will it be the customer's responsibility to inform the LEC that one of their non-primary lines is now a primary line?

Models Cannot Be Used to Verify the Number of Primary Lines (NPRM, ¶ 19)

The idea of using models to verify the number of primary lines is simply nonsensical. As has been demonstrated time and again, the AT&T/MCI Hatfield model does an horrendous job of predicting the number of lines in Census block groups. *See, e.g., Federal-State Joint Board* *on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 96J-3, 12 FCC Rcd 87, ¶ 250 (1996); *Federal-State Joint Board on Universal Service, Forward- Looking Mechanism for High Cost Support for Non-Rural LECS*, CC Docket No. 96-45 and 97-160, Further Notice of Proposed Rulemaking, FCC 97-256 (released July 18, 1997), ¶ 49 (citing concerns of State Board members on erroneous line counts). The following problems help illustrate why this proposal is not a practical approach.

1. The underlying Census data is only a sample. It does not include information on all customers, even when the Census is taken once every ten years.

2. The estimates provided between actual Censuses are only an estimate. The estimates are only made on a county basis and data is extrapolated to any smaller areas.

3. The areas used by the models do not correspond to areas for which any company would be reporting data. Census blocks ("CBs") or Census block groups ("CBGs") do not correspond to serving area boundaries the of SBC LECS, specifically, or incumbent LECS, generally.

4. The models use theoretical calculations based on broad averages to translate data from household information to line counts.

5. The Joint Board in its recommendation and the Commission in its universal service order each criticized the models for not producing accurate or representative counts of lines that would correlate to actual information produced by an incumbent LEC operating in that area.

Summing up, the process being suggested would therefore use sample data (1990 Census), adjusted with estimated data (1995 census estimates), and translate household information to line counts using theoretical calculations using broad average factors. It should be obvious that the proposed approach does not merit further consideration.

There Should Be No Limit To the Number of Primary Lines Per Service Address

The Commission should not limit the number of primary lines per service address. In today's society, it is not uncommon for multiple households to reside at the same service address -- extended families, returned adult children, and unrelated roommates all of which may subscribe to local exchange service. Each of those households constitute a customer in its own right, fully responsible for its own telephone bill, and use the residential service as the primary communication path to the network. There is no reason to charge the non-primary SLC for the initial line provided to customers in those circumstances.

Respectfully submitted,

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September 25, 1997

CERTIFICATE OF SERVICE

I, Don W. Blevins, certify that a true and correct copy of the foregoing Petition of Western Union Corporation for Correction and/or Reconsideration and Modification of the Commission Order of September 5, 1997, was served by First Class United States Mail, postage prepaid, this sixth day of October, 1997, upon each of the persons appearing on the attached list.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 97-181
Defining Primary Lines	)	

TO: The Commission

REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL

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TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 97-181
Defining Primary Lines	)	

REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL

Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (collectively, the "SBC LECs") submit these Reply Comments to the comments filed on September 25, 1997, in response to the Notice of Proposed Rulemaking, FCC 97-316 ("NPRM"). By filing these Reply Comments, none of the SBC LECs or any affiliate waives, prejudices, or otherwise adversely affects any appeal or other recourse from any Commission proceeding, including the Access Charge Reform Order.[1]

The Definition of Primary Line Should Be Made with Reference to Customer Account Information Used for Billing

There is strong support among commenting parties that the definition of primary residential lines should be linked to the initial line associated with a customer account at a specific service address. The majority of price cap local exchange carriers ("LECs") confirmed that their billing systems are designed to most easily implement the SBC LEC proposed definition of

[1] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, and 95-72, First Report and Order, FCC 97-158 (released May 8, 1997) ("Access Charge Reform Order").

primary line. For the reasons provided in the SBC LECs' initial Comments, the Commission should adopt that proposed definition and identify primary lines accordingly.

Self-Certification Has Been Shown To Be Unnecessary and Inappropriate

A diverse representation of parties point out the pitfalls of requiring customer self-certification, and the record plainly demonstrates that the need for customer self-certification can be eliminated by adoption of an appropriate definition of "primary line."

In contrast, there is absolutely no record supporting the conclusion that customer self-certification is necessary for price cap LECs to charge an appropriate subscriber line charge ("SLC") or presubscribed interexchange carrier charge ("PICC"), or that self-certification would be administratively easy, inexpensive, or even understandable to either customers or the price cap LEC personnel charged with implementing the Commission's two-tiered structure. A naked assertion that mandatory self-certification would "not [be] administratively burdensome" does not a record make, especially when made by a competitor that would not have to administer such a system. MCI Comments, p. 3. Competing carriers have an obvious incentive to convince regulators to saddle incumbent LECs with unnecessary responsibilities and added costs that the competing carriers do not have to bear. Even when the price cap LECs are permitted cost recovery, incurring unnecessary costs just makes price cap LECs less competitive and exacerbates the number and size of the regulator-created competitive advantages that carriers like MCI already enjoy. When viewed with MCI's proposal that would permit competitors access to that information[2] and its proposed "strict/no fault liability" approach to erroneous billing and primary line disputes (which include not only monetary penalties but third party audits paid for by the price cap LEC), the strategy of increasing price cap LEC's administrative and cost burdens is transparent.

Another party advocating self-certification, the People of the State of California and the Public Utilities Commission of the State of California ("CPUC"), relies on the fact that it has already required the identification of primary lines for California intrastate universal service purposes. As stated in the SBC LECs Comments at page 2, this proceeding involves only how a price cap LEC implements the mandated rate structure and charges its own customers. The charges billed by a price cap LEC to a customer cannot be dictated by the presence or absence of services another carrier might provide to that same customer. For example, the single residential line provided by a price cap LEC to a particular subscriber is the "primary line" regardless of the fact that another facilities-based carrier might provide multiple residential lines to that same customer. In contrast, the CPUC definition and implementation of "primary line" was for purposes of providing universal service high-cost support limited to a single residential line. The universal service considerations that may apply for that purpose are simply not present here.

Nevertheless, the experience with self-certification used in the CPUC's Universal Lifeline Telephone Service ("ULTS") program is instructive on the mechanics and costs of a relatively simple customer self-certification process. That experience unquestionably demonstrates that the

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[2] *See* pp. 5, 6, 9, and 10 herein, and the discussion of customer proprietary network information and 47 U.S.C. § 222.

process is inherently expensive and complex, requiring multiple customer contacts and tracking of initial and subsequent mailings. To begin, the expense of annually notifying existing Pacific Bell non-ULTS residential customers about the California program is approximately $.08/customer, or $600,000 per year for a bill insert. Pacific Bell also incurs an annual $18 million expense associated with Pacific Bell-initiated customer service contacts to make subscribers aware of and explain the ULTS program. Additional expense is further incurred in answering questions of subscribers who call Pacific Bell about ULTS. The cost of sending and receiving self-certification forms and reminders is about $1.5 million annually, a figure that does not include the cost of storing the returned forms. An additional $900,000 is also spent every year for the annual re-certification of existing ULTS customers. Pacific Bell's experience is not unique -- GTE also has experienced significant expenses with self-certification in California. *See* CPUC Comments, Attachment A, pp. 3, 4 (acknowledging GTE's claim that "the annual self-certification process for the ULTS has been costly to the program and administratively burdensome to its company.").

In any event, regardless of the merits of customer self-certification, all parties agree that wholesale self-certification is not needed. Even those parties that advocated self-certification recognize that current billing information should be used to at least initially identify primary lines. *See* MCI Comments, p. 4 ("In instances where the end user has only one line, and it is provided by the [incumbent LEC], the line can automatically be labeled as the 'primary' line – no customer self-certification is needed."); CPUC Comments, p. 5 ("The CPUC does not believe all customers need to participate in the self-certification process at the outset. . . . Relying on existing information can reduce administrative costs."). In fact, all but one of those relatively few parties either advocating or unopposed to customer self-certification seeks to limit such to a small subset of customers (*i.e.*, present accounts with multiple lines, all new orders).

The FCC Should Treat Any Primary/Non-Primary Line Information Like All Other CPNI

The Commission should conclude that the primary/non-primary line information is customer proprietary network information ("CPNI"), and that rules applicable to any other local exchange CPNI should likewise apply. Primary/non-primary line information is customer account information that relates to the "amount" and "type" of local exchange telecommunications service subscribed to by a customer; therefore, it constitutes CPNI under 47 U.S.C. § 222(f)(1)(A). As such, the information is no less subject to the CPNI restrictions and limitations in 47 U.S.C. § 222 and applicable Commission rules as any other form of CPNI. Accordingly, the SBC LECs echo the comments of those parties that urge the Commission to consistently apply to primary/non-primary line information the CPNI rules that will be promulgated in the pending *Telecommunication Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115.

In this regard, the approach suggested by Cox Communications, Inc. ("Cox") is clearly and fatally flawed. Cox starts by asserting that primary line information is "subscriber list information." There is absolutely no basis for that assertion. Subscriber list information is confined, in relevant part, to names, addresses, and telephone numbers of "listed" customers. 47 U.S.C. § 222(f)(3). Such information does not extend to the amount or type of telephone service subscribed to by a customer.

Moreover, a customer's listed name, number, and address are normally expected by the subscriber to be disclosed for the obvious purpose of allowing persons to find the telephone number of the subscriber. Primary/non-primary line information has no similar "directory publishing" use, and there is no basis to presume that a customer has no legitimate expectation of privacy in the number of lines he or she may have, or how he or she designated priority among them. To the contrary, information regarding the number of lines that a customer has (*i.e.*, the amount of service), and the relative priority among them given by the customer (*i.e.*, the type of service), is CPNI which reflects a private and personal telecommunications service choice. Customers -- and Congress -- are becoming increasingly sensitive about the availability of personal information in this electronic age, and the Commission should respect those concerns here.

In sum, there is simply no grounds for treating this primary line information different than any other form of CPNI, or treating it as subscriber listing information. Further, if and when that CPNI is shared with a carrier for billing purposes, the use of that information must be strictly limited in accordance with 47 U.S.C. § 222.

More Time is Needed to Implement a Two-Tiered SLC/PICC Structure

The SBC LECs agree with the other price cap LECs' conclusion that it is not possible to implement a two-tiered SLC and PICC rate structure by the current January 1, 1998, deadline. *See* Bell Atlantic Comments, pp. 8, 9; BellSouth Comments, p. 2; GTE Comments, pp. 15-17; *see also* USTA Comments, pp. 3, 4. No matter what definition of "primary line" the Commission adopts or the method used to implement it, there simply is not enough time to take the actions